

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

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PENGUIN RANDOM HOUSE LLC; SIMON &
SCHUSTER, INC.; ALAN U. SCHWARTZ, as
trustee of THE TRUMAN CAPOTE LITERARY
TRUST; JOHN SAMPAS as Literary
Representative of THE ESTATE OF JACK
KEROUAC; NANCY BUMP; ANTHONY M.
SAMPAS; JOHN LASH, Executor of THE
ESTATE OF JAN KEROUAC; THE DR.
ARTHUR C. CLARKE TRUST; HEMINGWAY
COPYRIGHTS, L.L.C.; THE PATRICK
HEMINGWAY AND CAROL T. HEMINGWAY
REVOCABLE LIVING TRUST; and THE
HEMINGWAY FAMILY TRUST,

Plaintiffs

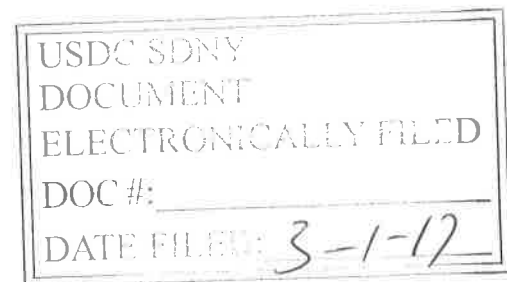
- vs -

FREDRIK COLTING and MELISSA MEDINA,
d/b/a Moppet Books,

Defendants.

17 Civ. 386 (JSR)

ANSWER TO
AMENDED COMPLAINT



ANSWER, JURY DEMAND, AND AFFIRMATIVE DEFENSES OF DEFENDANTS
FREDRIK COLTING and MELISSA MEDINA, d/b/a Moppet Books

Defendants FREDRIK COLTING and MELISSA MEDINA, d/b/a Moppet Books
("Defendants") answers Plaintiffs' Complaint as follows:

NATURE OF THE ACTION

1. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 1 of the Complaint and therefore denies such allegations.

2. Defendants deny the allegations in paragraph 2 of the complaint.
3. Defendants deny the allegations in paragraph 3 of the complaint.
4. Defendants deny the allegations in paragraph 4 of the complaint.
5. Defendants deny the allegations in paragraph 5 of the complaint.
6. Defendants deny the allegations in paragraph 6 of the complaint.
7. Defendants deny the allegations in paragraph 7 of the complaint.
8. Defendants deny the allegations in paragraph 8 of the complaint.
9. Defendants deny the allegations in paragraph 9 of the complaint.

JURISDICTION AND VENUE

10. Defendants deny the allegations in paragraph 10 of the complaint.
11. Defendants deny the allegations in paragraph 11 of the complaint.
12. Defendants deny the allegations in paragraph 12 of the complaint.
13. Defendants deny the allegations in paragraph 13 of the complaint.

THE PARTIES

The Hemingway Plaintiffs

14. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 14 of the Complaint and therefore denies such allegations

15. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 15 of the Complaint and therefore denies such allegations

16. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 16 of the Complaint and therefore denies such allegations

17. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 17 of the Complaint and therefore denies such allegations

18. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 18 of the Complaint and therefore denies such allegations

The PRH Plaintiffs

19. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 19 of the Complaint and therefore denies such allegations

20. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 20 of the Complaint and therefore denies such allegations.

21. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 21 of the Complaint and therefore denies such allegations.

22. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 22 of the Complaint and therefore denies such allegations.

23. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 23 of the Complaint and therefore denies such allegations.

Defendants

24. Defendants admit the allegations in paragraph 24 of the complaint.

25. Defendants admit the allegations in paragraph 25 of the complaint.

26. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 26 of the Complaint and therefore denies such allegations

FACTUAL BACKGROUND

The Old Man and the Sea

27. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 27 of the Complaint and therefore denies such allegations.

28. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 28 of the Complaint and therefore denies such allegations.

29. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 29 of the Complaint and therefore denies such allegations.

30. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 30 of the Complaint and therefore denies such allegations.

31. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 31 of the Complaint and therefore denies such allegations.

32. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 32 of the Complaint and therefore denies such allegations.

33. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 33 of the Complaint and therefore denies such allegations.

34. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 34 of the Complaint and therefore denies such allegations.

35. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 35 of the Complaint and therefore denies such allegations.

36. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 36 of the Complaint and therefore denies such allegations

37. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 37 of the Complaint and therefore denies such allegations

38. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 38 of the Complaint and therefore denies such allegations.

39. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 39 of the Complaint and therefore denies such allegations.

Breakfast at Tiffany's

40. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 40 of the Complaint and therefore denies such allegations

41. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 41 of the Complaint and therefore denies such allegations

42. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 42 of the Complaint and therefore denies such allegations

43. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 43 of the Complaint and therefore denies such allegations

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45. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 45 of the Complaint and therefore denies such allegations

46. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 46 of the Complaint and therefore denies such allegations

47. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 47 of the Complaint and therefore denies such allegations

48. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 48 of the Complaint and therefore denies such allegations.

49. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 49 of the Complaint and therefore denies such allegations.

50. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 50 of the Complaint and therefore denies such allegations

51. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 51 of the Complaint and therefore denies such allegations

52. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 52 of the Complaint and therefore denies such allegations.

53. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 53 of the Complaint and therefore denies such allegations.

54. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 54 of the Complaint and therefore denies such allegations.

2001: A Space Odyssey

55. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 55 of the Complaint and therefore denies such allegations

56. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 56 of the Complaint and therefore denies such allegations

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59. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 59 of the Complaint and therefore denies such allegations

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61. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 61 of the Complaint and therefore denies such allegations

62. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 62 of the Complaint and therefore denies such allegations

On the Road

63. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 63 of the Complaint and therefore denies such allegations

64. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 64 of the Complaint and therefore denies such allegations

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70. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 70 of the Complaint and therefore denies such allegations.

71. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 71 of the Complaint and therefore denies such allegations

72. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 72 of the Complaint and therefore denies such allegations.

73. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 73 of the Complaint and therefore denies such allegations

74. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 74 of the Complaint and therefore denies such allegations

75. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 75 of the Complaint and therefore denies such allegations

76. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 76 of the Complaint and therefore denies such allegations

77. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 77 of the Complaint and therefore denies such allegations

Defendants' Unauthorized Children's Versions

78. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 78 of the Complaint and therefore denies such allegations

79. Defendants deny the allegations in paragraph 79 of the complaint.

80. Defendants deny the allegations in paragraph 80 of the complaint.

81. Defendants deny the allegations in paragraph 81 of the complaint.

82. Defendants deny the allegations in paragraph 82 of the complaint.

83. Defendants deny the allegations in paragraph 83 of the complaint.

84. Defendants deny the allegations in paragraph 84 of the complaint.

85. Defendants deny the allegations in paragraph 85 of the complaint.

86. Defendants deny the allegations in paragraph 86 of the complaint.

87. Defendants deny the allegations in paragraph 87 of the complaint.

88. Defendants deny the allegations in paragraph 88 of the complaint.

89. Defendants deny the allegations in paragraph 89 of the complaint.

90. Defendants deny the allegations in paragraph 90 of the complaint.

91. Defendants deny the allegations in paragraph 91 of the complaint.

92. Defendants deny the allegations in paragraph 92 of the complaint.

93. Defendants deny the allegations in paragraph 93 of the complaint.

94. Defendants deny the allegations in paragraph 94 of the complaint.

95. Defendants deny the allegations in paragraph 95 of the complaint.

Plaintiffs Learn of the Unauthorized Infringing Works

96. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 96 of the Complaint and therefore denies such allegations.

97. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 97 of the Complaint and therefore denies such allegations

98. Defendants deny the allegations in paragraph 98 of the complaint.

99. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 99 of the Complaint and therefore denies such allegations

100. Defendants deny the allegations in paragraph 100 of the complaint.

101. Defendants deny the allegations in paragraph 101 of the complaint.

The Actual and Potential Impact on the Markets for the Novels and Children's Versions of Them and Plaintiffs' Irreparable Injury

102. Defendants deny the allegations in paragraph 102 of the complaint.

103. Defendants deny the allegations in paragraph 103 of the complaint.

104. Defendants deny the allegations in paragraph 104 of the complaint.

105. Defendants deny the allegations in paragraph 105 of the complaint.

106. Defendants deny the allegations in paragraph 106 of the complaint.

107. Defendants deny the allegations in paragraph 107 of the complaint.

AS AND FOR A FIRST CLAIM FOR RELIEF

(Copyright Infringement of *The Old Man and the Sea* By S&S
and The Old Man and the Sea Plaintiffs)

108. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 108 of the Complaint and therefore denies such allegations

109. Defendants are without knowledge or information to form a belief as to the truth of the allegation in paragraph 109 of the Complaint and therefore denies such allegations

110. Defendants deny the allegations in paragraph 110 of the complaint.

111. Defendants deny the allegations in paragraph 111 of the complaint.

112. Defendants deny the allegations in paragraph 112 of the complaint.

113. Defendants deny the allegations in paragraph 113 of the complaint.

114. Defendants deny the allegations in paragraph 114 of the complaint.

115. Defendants deny the allegations in paragraph 115 of the complaint.

AS AND FOR A SECOND CLAIM FOR RELIEF

(Copyright Infringement of the exclusive right to create works derivative of
The Old Man and the Sea by the Hemingway Plaintiffs)

116. Defendants deny the allegations in paragraph 116 of the complaint.

117. Defendants deny the allegations in paragraph 117 of the complaint.

118. Defendants deny the allegations in paragraph 118 of the complaint.

119. Defendants deny the allegations in paragraph 119 of the complaint.

120. Defendants deny the allegations in paragraph 120 of the complaint.

121. Defendants deny the allegations in paragraph 121 of the complaint.

122. Defendants deny the allegations in paragraph 122 of the complaint.

AS AND FOR A THIRD CLAIM FOR RELIEF

(Copyright Infringement of *Breakfast at Tiffany's* By PRH
and The Truman Capote Literary Trust)

123. Defendants deny the allegations in paragraph 123 of the complaint.

124. Defendants deny the allegations in paragraph 124 of the complaint.

125. Defendants deny the allegations in paragraph 125 of the complaint.

126. Defendants deny the allegations in paragraph 126 of the complaint.

127. Defendants deny the allegations in paragraph 127 of the complaint.

128. Defendants deny the allegations in paragraph 128 of the complaint.

129. Defendants deny the allegations in paragraph 129 of the complaint.

130. Defendants deny the allegations in paragraph 130 of the complaint.

AS AND FOR A FOURTH CLAIM FOR RELIEF

(Copyright Infringement of the Holly Golightly Character
by The Truman Capote Literary Trust)

131. Defendants deny the allegations in paragraph 131 of the complaint.

132. Defendants deny the allegations in paragraph 132 of the complaint.

133. Defendants deny the allegations in paragraph 133 of the complaint.

134. Defendants deny the allegations in paragraph 134 of the complaint.

135. Defendants deny the allegations in paragraph 135 of the complaint.

136. Defendants deny the allegations in paragraph 136 of the complaint.

137. Defendants deny the allegations in paragraph 137 of the complaint.

138. Defendants deny the allegations in paragraph 138 of the complaint.

139. Defendants deny the allegations in paragraph 139 of the complaint.

140. Defendants deny the allegations in paragraph 140 of the complaint.

141. Defendants deny the allegations in paragraph 141 of the complaint.

142. Defendants deny the allegations in paragraph 142 of the complaint.

143. Defendants deny the allegations in paragraph 143 of the complaint.

144. Defendants deny the allegations in paragraph 144 of the complaint.

145. Defendants deny the allegations in paragraph 145 of the complaint.

146. Defendants deny the allegations in paragraph 146 of the complaint.

147. Defendants deny the allegations in paragraph 147 of the complaint.

148. Defendants deny the allegations in paragraph 148 of the complaint.

AS AND FOR A SIXTH CLAIM FOR RELIEF

(Copyright Infringement of *2001: A Space Odyssey* By PRH and
The Dr. Arthur C. Clarke Trust)

149. Defendants deny the allegations in paragraph 149 of the complaint.

150. Defendants deny the allegations in paragraph 150 of the complaint.

151. Defendants deny the allegations in paragraph 151 of the complaint.

152. Defendants deny the allegations in paragraph 152 of the complaint.

153. Defendants deny the allegations in paragraph 153 of the complaint.

154. Defendants deny the allegations in paragraph 154 of the complaint.

155. Defendants deny the allegations in paragraph 155 of the complaint.

156. Defendants deny the allegations in paragraph 156 of the complaint.

AS AND FOR A SEVENTH CLAIM FOR RELIEF

(Copyright Infringement of the exclusive right to create works derivative of

2001: A Space Odyssey by the 2001: A Space Odyssey Plaintiffs)

157. Defendants deny the allegations in paragraph 157 of the complaint.

158. Defendants deny the allegations in paragraph 158 of the complaint.

159. Defendants deny the allegations in paragraph 159 of the complaint.

160. Defendants deny the allegations in paragraph 160 of the complaint.

161. Defendants deny the allegations in paragraph 161 of the complaint.

162. Defendants deny the allegations in paragraph 162 of the complaint.

163. Defendants deny the allegations in paragraph 163 of the complaint.

AS AND FOR AN EIGHTH CLAIM FOR RELIEF

(Copyright Infringement of *On the Road* By PRH and the On the Road Plaintiffs)

164. Defendants deny the allegations in paragraph 164 of the complaint.

165. Defendants deny the allegations in paragraph 165 of the complaint.

166. Defendants deny the allegations in paragraph 166 of the complaint.

167. Defendants deny the allegations in paragraph 167 of the complaint.

168. Defendants deny the allegations in paragraph 168 of the complaint.

169. Defendants deny the allegations in paragraph 169 of the complaint.

170. Defendants deny the allegations in paragraph 170 of the complaint.

171. Defendants deny the allegations in paragraph 171 of the complaint.

172. Defendants deny the allegations in paragraph 172 of the complaint.

173. Defendants deny the allegations in paragraph 173 of the complaint.

174. Defendants deny the allegations in paragraph 174 of the complaint.

175. Defendants deny the allegations in paragraph 175 of the complaint.

176. Defendants deny the allegations in paragraph 176 of the complaint.

177. Defendants deny the allegations in paragraph 177 of the complaint.

178. Defendants deny the allegations in paragraph 178 of the complaint.

JURY DEMAND

Defendants demand a jury trial of all issues triable by jury under applicable law.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Court lacks jurisdiction over the subject matter of this action because Plaintiffs lack statutory and Article III standing to bring this action and/or because the case or controversy, if any ever existed, is now moot.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' claims and/or the remedies sought are barred by the First Amendment to the United States Constitution.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are unsuitable for class treatment pursuant to Federal Rule of Civil Procedure 23.

FIFTH AFFIRMATIVE DEFENSE

Defendants' use of and activities with respect to books that are subject to copyright are subject to one or more of the limitations on 17 U.S.C. § 106 set forth in 17 U.S.C. §§ 107-122.

SIXTH AFFIRMATIVE DEFENSE

Some or all of the Plaintiffs' claims are barred or subject to dismissal for failure to comply with renewal, notice, and registration requirements, and with other necessary formalities.

SEVENTH AFFIRMATIVE DEFENSE

Some or all of the copyrights on which Plaintiffs rely have been forfeited or abandoned.

EIGHTH AFFIRMATIVE DEFENSE

Some or all of Plaintiffs' works or portions thereof are not original.

NINTH AFFIRMATIVE DEFENSE

Some or all of Plaintiffs' works or portions thereof are in the public domain.

TENTH AFFIRMATIVE DEFENSE

Some or all of Plaintiffs' claims are barred by the merger doctrine.

ELEVENTH AFFIRMATIVE DEFENSE

Some or all of Plaintiffs' works or portions thereof constitute unprotectable ideas, procedures, processes, systems, methods of operation, concepts, principles, or discoveries.

TWELFTH AFFIRMATIVE DEFENSE

Some or all of Plaintiffs' works or portions thereof constitute scenes a faire.

THIRTEENTH AFFIRMATIVE DEFENSE

Some or all of Plaintiffs' claims are barred because Plaintiffs have engaged in copyright misuse and have unclean hands.

FOURTEENTH AFFIRMATIVE DEFENSE

Some or all of Plaintiffs' claims or some or all of the relief sought for such claims are barred by the doctrines of waiver, estoppel, laches, or acquiescence.

FIFTEENTH AFFIRMATIVE DEFENSE

Defendants have a license to scan, copy, and/or display some or all of Plaintiffs' works or portions thereof.

SIXTEENTH AFFIRMATIVE DEFENSE

Some or all of Plaintiffs' claims are barred because Plaintiffs do not own the copyright and/or electronic rights for some or all of the works.

SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the Fair Use doctrine.

WHEREFORE, Defendants (FREDERIK COLTING and MELISSA MEDINA, d/b/a Moppet Books) respectfully pray the Court as follows:

1. That the Court dismiss the Complaint for lack of subject-matter jurisdiction;
2. That the Court dismiss the Complaint for failure to state a claim upon which relief can be granted;
3. That the Court deny certification of the proposed class;
4. That Plaintiffs recover nothing of Defendants;
5. That the Court deny Plaintiffs' request for injunctive and declaratory relief;
6. That the costs of this action, including reasonable attorneys' fees, be taxed against Plaintiffs pursuant to 17 U.S.C. § 505 or other applicable law; and
7. That the Court grant Defendants such other and further relief as the Court deems just and proper.

Dated: New York, New York February 28, 2017
Respectfully submitted,

Fredrik Colting



Melissa Medina



2624 Berkeley ave
90026 Los Angeles, CA
(323) 717 3976

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Flat Rate

Acceptance Employee Initial

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